IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

MONDAY, THE 11TH JUNE 2007 / 21ST JYAISHTA 1929

WP(C).No. 9921 of 2007(F)

PETITIONER:

RAJA BHAGIAM, THYVILA VEEDU,
NEAR AYURVEDA COLLEGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA
SRI.R.S.MADHU
SRI.MAHESH ANANDAKUTTAN

RESPONDENTS:
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1. MRS.R.SARADA, T.C.25/2164,
THAIVILA ROAD, OPP: AYURVEDA COLLEGE,
THIRUVANANTHAPURAM.

2. CORPORATION OF THIRUVANANTHAPURAM
REPRESENTED BY ITS SECRETARY.

3. HONOURABLE OMBUDSMAN FOR LOCAL SELF
GOVERNMENT INSTITUTIONS, THIRUVANANTHAPURAM.

BY ADV. SRI.J.HARIKUMAR
SRI.HARIKUMAR.S.
ADV.SRI.N.NANDAKUMARA MENON, SC.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 11/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. M. JOSEPH, J.

W.P.C. NO. 9921 OF 2007 F

Dated this the 11th June, 2007

JUDGMENT

Petitioner challenges Ext.P6. It is an Order passed by the Ombudsman. It reads as follows:

> *"In pursuance of my order dated 09.11.2006, the Regional Joint Director of Urban Affairs, Kollam has filed a report dated 06.12.2006. Office should send a copy of this report to the Corporation and the Corporation should take necessary steps to demolish the illegal construction as reported in the aforesaid report dated 06.12.2006."*

2. Shri N. Nandakumara Menon, learned standing counsel appearing on behalf of the second respondent Corporation would submit that pursuant to the impugned order, the Corporation has issued a notice under Section 406(1) and (2) of the Kerala Municipality Act. Of course, the complaint which led to the passing of Ext.P6 was filed by the first respondent, complaining of inaction on the part of the Local Authority in

taking steps to demolish the alleged illegally constructed building by the petitioner.

3. Heard the learned counsel for the petitioner and respondents 1 and 2. Of course, counsel for the first respondent relies on Ext.R1(b) to point out that the Report unmistakably shows that the petitioner has made an illegal construction and it has to be demolished. Petitioner has a case that the copy of the Report is not served on him. In the nature of the Order that I propose to pass, it is not necessary for me to pursue this issue.

4. In the wake of the stand taken by the respondent Corporation accepting Ext.P6 and in issuing a Notice under Section 406(1) and (2) of the Kerala Municipality Act, I feel that the Writ Petition can be disposed of as follows:

The Writ Petition is disposed of directing the second respondent Corporation to proceed with the Notice issued under Section 406(1) and (2) of the Act in accordance with law, after affording an opportunity of being heard to the petitioner and the first respondent to make good their contentions. It is open to the

first respondent to rely on Ext.R1(b) Report as much as it is open to the petitioner to object to the Report and to place such facts before the Corporation as she considers as relevant. Of course, counsel for the petitioner submits that the alleged Notice referred to by the counsel for the Corporation has not been received, to the knowledge of the petitioner. The proceedings shall be completed by the second respondent in accordance with law, after affording full opportunity to petitioner and first respondent, within a period of six weeks from today.

K. M. JOSEPH, JUDGE

kbk.